

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 2619 - SB 2669**

February 8, 2012

**SUMMARY OF BILL:** Removes present statutory provisions authorizing a federal officer to make arrests for nonfederal offenses in Tennessee and granting immunity to such officer under certain circumstances. Requires any federal employee who intends to conduct an arrest, seizure or search in the process of enforcing a federal statute, regulation, or court order in Tennessee to first notify the local law enforcement agency and the Attorney General and Reporter except in certain enumerated circumstances. Creates a Class E felony offense for an official, agent, or employee of the United States government to enforce or attempt to enforce any federal law, order, rule, or regulation that is beyond the authority granted to the federal government pursuant to the United States Constitution. In addition, any person in violation of such offense may be prosecuted for kidnapping if an arrest or attempted arrest occurred; for trespass if a search or attempted search occurred; for theft if a seizure or attempted seizure occurred; or for any applicable homicide offense. Grants immunity from criminal prosecution and civil liability for any local law enforcement agency, designee of the local law enforcement agency, or other person acting under authority of the local law enforcement agency to enforce or attempt to enforce the provision of this section upon a showing of good faith.

The General Assembly declares that any federal law purporting to require local or state law enforcement agencies to act at the direction of the federal government or the United States military is beyond the authority granted to the federal government pursuant to the United States Constitution, is not recognized by this State, is specifically rejected by this State, and is declared to be invalid in this State. The General Assembly also declares that any federal law purporting to give federal agents or employees, including any members of the United States military, the authority of a county sheriff, or the authority of any other state or local law enforcement agency of Tennessee, without the express permission of this state, is beyond the authority granted to the federal government pursuant to the United States Constitution, is not recognized by this State, is specifically rejected by this State, and is declared to be invalid in this State.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$27,400/Incarceration\***

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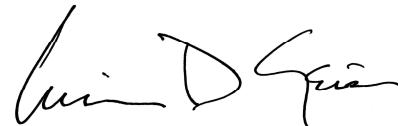
Assumptions:

- The Department of Correction (DOC) assumes there will be one Class E admission every five years for any official, agent, or employee of the U.S. government who enforces or attempts to enforce any federal law, order, rule, or regulation that is beyond the authority granted to the federal government pursuant to the U.S. Constitution.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one additional Class E, Class C, and Class D felony admission every five years as a result of this bill.
- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$61.36. The average post-conviction time served for a Class E felony is 1.28 years (467.52 days) at a cost of \$28,687.03. The annualized cost per offender is \$5,737.41 (0.20 annual number of convictions x \$28,687.03).
- DOC assumes one additional Class C admission for kidnapping and one additional Class D admission for theft every five years for those federal officers making arrest for non-federal offenses without obtaining the required permission from the appropriate sheriff, or from the Attorney General and Reporter if the sheriff is expected to be involved.
- The average post-conviction time served for a Class C felony is 2.98 years (1,088.45 days) at a cost of \$66,787.29 (\$61.36 x 1,088.45) and 1.86 years (679.37 days) at a cost of \$41,686.14 (\$61.36 x 679.37 days) for a Class D felony. The annualized cost for one additional Class C admission every five years is \$13,357.46 (0.20 annual number of convictions x \$66,787.29). The annualized cost for one additional Class D admission every five years is \$8,337.23 (0.20 annual number of convictions x \$41,686.14).
- The total additional operating cost is \$27,432.10 (\$5,737.41 + \$13,357.46 + \$8,337.23).
- Neither the Attorney General and Reporter or local law enforcement will require additional resources to respond to permission requests.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc